IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6436 OF 2007

Chandrakant Baburao Jadhav
and others : Petitioners

versus

Yashawantrao Dattajirao
Bhosale : Respondent.

Mr.V.B.Rajure for the Petitioners.
Mr.Madhav Jamdar for the respondent

CORAM : A.P.DESHPANDE, J.

DATED : SEPTEMBER 29, 2007.

P.C.

1. The respondent/plaintiff instituted a suit for mandatory injunction with a view to remove the encroachment and claimed possession. In the said suit the plaintiff moved an application for appointment of TILR as a Court Commissioner for measurement of the land. The

trial Court, being of the view that such a measurement at the hands of TILR would go to elucidate controversy between the parties, has allowed the application by an order dated 2.7.2007. It is one of the orders which is challenged in this petition. Other order is passed below Exhibit 54 rejecting an application moved by the petitioners/defendants seeking appointment of Court Commissioner for asserting the age of construction. The case of the petitioners is one of adverse possession. The trial Court has held that it is for the defendants to establish the age of construction. It has also found that the defendants are trying to use court's machinery for the collection of evidence and hence rejected the application by an order dated 2.7.2007.

2. Perused the orders. Same do not call for interference in a writ jurisdiction. Hence the writ petition is summarily dismissed.

[A.P.DESHPANDE,J]